THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO.12313 of 1998

DATED: 05-04-2007

Between:-

Green Granite Private Limited, Ongole represented by Pothula Bvahapa Naidu, Director.

.. Petitioner

and

Director of Mines and Geology, B.R.K. Bhavan, Hyderabad and others.

.. Respondents

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ORDER:

This writ petition is filed seeking a mandamus declaring the demand notice, dated 18.12.1995, issued by the 3rd respondent and consequential order of the Mandal Revenue Officer, Ongole, dated 24.03.1998, issued under Section 8 of the Revenue Recovery Act, as illegal, unconstitutional and without power of authority.

The brief facts of the case are that the petitioner company applied for grant of quarry lease for Black Granite in respect of an extent of Acres 3.90 cents in Sy.No.1246 of East Kundoor village, Santhamaguluru Mandal of Prakasam District. The same was granted vide proceedings of the 1st respondent and lease deed was executed on 22.09.1993 permitting the petitioner company to commence quarry operations. The petitioner company paid necessary dead rent and other fees to the Mines and Geology department. While so, the petitioner company alleges that after obtaining the mining lease and when it tried to go ahead with the quarry operations, the 5th respondent – Forest Section Officer, Vetapalem objected the same stating that the land is located within the Reserve Forest Area and directed it not to go ahead with quarry operations until further orders. Hence, the petitioner company did not proceed with the quarry operations and brought the same to the notice of the 3rd respondent, and also requested him to take permission from Forest Department for conducting quarry

operations. But, no clearance was obtained by the 3rd respondent from the Forest Department. While the matter stood thus, the petitioner company received a demand notice No.2570/01/03, dated 18.12.1995, from the 3rd respondent, demanding an amount of Rs.51,092/- towards arrears of lease rent upto 20.10.1995. Immediately, it approached the 3rd respondent and brought to his notice about the non-operation of the quarry in view of the objection raised by the officials of the Forest Department. On that, the 3rd respondent assured that he would inform the respondents 1 and 2 about the same and get the notice cancelled. But, suddenly, in the last week of March 1998, the petitioner company received the proceedings issued by the 6th respondent- Mandal Revenue Officer, Ongole, dated 24.03.1998, under Section 8 of the Revenue Recovery Act, stating that if it does not pay the lease amount of Rs.51,092/- for the year 1992 immediately, its properties will be attached and public auction will be conducted for recovery of dues. According to the petitioner company, the said proceedings of the Mandal Revenue Officer were with regard to the lease rent for the year 1992, but the lease was granted in its favour in the year 1993 only and hence the said proceedings are illegal. Further, since it did not operate the quarry as it was prevented from doing so by the officials of the Forest Department, it is not liable to pay the lease rent as alleged in the demand notice issued by the 3rd respondent as well as in the proceedings of the Mandal Revenue Officer.

Respondents 1 to 3, officials of the Mines and Geology Department, filed a counter-affidavit stating that in the revenue accounts, the land in question was classified as Konda Poramboke and, hence, it was free for grant of quarry lease. Further, after obtaining 'No Objection Certificate' from the District Collector, Praksam District only, lease was granted in favour of the petitioner

company. As the lease was in existence, the petitioner company is under an obligation to pay the agreed amount of lease and, hence, the 3rd respondent issued the impugned demand notice, calling upon it to pay an amount of Rs.51,092/- towards arrears of lease rent .

The respondents 4 and 5, officials of the Forest Department, filed a separate counter-affidavit stating that they are not aware about the grant of mining lease in favour of the petitioner company over an extent of Acres 3.90 cents in Sy.No.1246 of East Kundoor village of Prakasam District, and any lease granted in respect of Forest Area requires prior approval of the Central Government, under Section 2 of the Forest Conservation Act. As the petitioner company was not having the said approval in it's favour and the said area falls within the Reserve Forest Block, they have objected the mining operations by the petitioner company.

Heard both sides.

No doubt, it is true that the lease is in existence. But, while granting lease, the authorities concerned shall see that the lessee shall not have any obstruction from any corner. When once the Forest Department claims an area as Reserve Forest area, it is the duty of the officials of the Mining Department, who intend to lease out the same to persons or companies like the petitioner, to obtain prior permission from the Forest Department as provided under Section 2 of the Forest Conservation Act. But, as the same was not done, the officials of the Forest Department obstructed the petitioner company, when it tried to go ahead with the mining operations, as a consequence of which, it could not carry on the said mining operations. Hence, in my considered view, the petitioner company cannot be made liable to pay the alleged arrears of lease rent and the impugned proceedings are

liable to be set aside.

Accordingly, this writ petition is allowed setting aside the demand notice issued by the 3rd respondent, dated 18.12.1995, and the consequential proceedings the Mandal Revenue Officer, dated 24.03.1998, issued under Section 8 of the Revenue Recovery Act. No costs.

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GOPALA KRISHNA TAMADA, J

5th April, 2007

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